

# EXHIBIT D

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (CGM)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Substantively  
Consolidated SIPA Liquidation of Bernard L.  
Madoff Investment Securities LLC and the Estate  
of Bernard L. Madoff,

Plaintiff,

v.

SQUARE ONE FUND LTD.,

Defendant.

Adv. Pro. No. 10-04330 (CGM)

**ORDER APPOINTING A DISCOVERY ARBITRATOR PURSUANT TO  
BANKRUPTCY RULE 9019(c) AND GENERAL ORDER M-390**

**WHEREAS**, on March 31, 2023, the Trustee filed the Declaration of Marco Molina Requesting Conference Pursuant to Local Bankruptcy Rule 7007-1, requesting a conference before Judge Morris regarding the Trustee's contemplated motion for sanctions (the "Dispute") under Rule 37(e) (ECF No. 265);

**WHEREAS**, on April 2, 2023, defendant Square One Fund Ltd. (“Square One”) filed Square One’s Response to the Declaration of Marco Molina Requesting Conference Pursuant to Local Rule 7007-1, requesting this matter be sent to a discovery arbitrator (ECF No. 267);

**WHEREAS**, the Court set the Hearing for May 17, 2023 at 10:00 a.m. (ECF No. 268);

**WHEREAS**, the Court heard the Parties’ arguments and determined the dispute should be heard by a discovery arbitrator, The Honorable Frank Maas (ret.).

**NOW THEREFORE, IT IS HEREBY ORDERED**, that:

(i) The Parties are to appear before The Honorable Frank Maas (ret.), c/o JAMS, Inc. (the “Discovery Arbitrator”) regarding the Dispute in accordance with the Order Appointing a Discovery Arbitrator Pursuant to Bankruptcy Rule 9019(c) and General Order M-390, *Securities Investor Protection Corporation v. Bernard L. Madoff Investment Securities LLC (In re Bernard L. Madoff Investment Securities LLC)*, No. 08-01789 (CGM) (Bankr. S.D.N.Y.), ECF No. 14227 (the “Discovery Arbitrator Order”).

(ii) ~~Except to the extent, if any, inconsistent with this Order, all terms and conditions of the Discovery Arbitrator Order shall apply to the arbitration of the Dispute~~The costs of the Discovery Arbitrator shall be shared equally by the Trustee and Square One based on the Discovery Arbitrator’s current fees.

(iii) The Trustee is permitted to submit his contemplated motion for sanctions, to be heard by the Honorable Frank Maas.

(iv) The Discovery Arbitrator shall have the power to decide discovery disputes, including without limitation, those that fall within the categories referred to in the Case Management Plan, or any further amended case management plan.

(v) The rulings of the Discovery Arbitrator shall be binding on the Parties. Either Party may request an appeal of any ruling of the Discovery Arbitrator by submitting a letter to

the Court (copying the other Party and the Discovery Arbitrator) setting forth the request and the issues to be reviewed within fourteen days of the date such ruling is issued. At the Court's discretion, the Discovery Arbitrator's rulings will be reviewed as follows: (a) findings of fact will be reviewed *de novo*; (b) legal conclusions will be reviewed *de novo*; and (c) rulings on procedural issues will be reviewed for abuse of discretion.

(vi) This Court shall retain jurisdiction with respect to all matters relating to the interpretation or implementation of this Order.